



**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 37 and 52**

**[FAC 2005-101; FAR Case 2018-009; Item II; Docket No. 2018-0009; Sequence No. 1]**

**RIN 9000-AN70**

**Federal Acquisition Regulations: One Dollar Coins**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act for Fiscal Year 2018 that provides an exception for business operations conducted by a contractor while performing under a Government contract from the requirement to accept and dispense \$1 coins.

**DATES:** Effective **[Insert date 30 days after date of publication in the FEDERAL REGISTER]**

**FOR FURTHER INFORMATION CONTACT:** Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202-501-1448 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat

Division at 202-501-4755. Please cite FAC 2005-101, FAR Case 2018-009.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In August of 2007, FAR 37.116 implemented section 104 of the Presidential \$1 Coin Act of 2005 (31 U.S.C. 5112(p)(1); Public Law 109-145), which removed barriers to the circulation of \$1 coins. Section 104 requires that business operations performed on Government premises provide for accepting and dispensing of existing and proposed \$1 coins as part of operations on and after January 1, 2008. To implement this requirement, FAR clause 52.237-11, Accepting and Dispensing of \$1 Coin, was created for inclusion in solicitations and contracts for services that involve business operations conducted in U.S. coins and currency on any premises owned by the U.S. or under the control of any agency or instrumentality of the U.S. The clause requires contractors to be capable of accepting and dispensing \$1 coins as part of business operations under the contract.

The Section 809 Panel is a congressionally mandated panel to streamline and improve the acquisition process by identifying and eliminating outdated acquisition provisions. As part of this process, the Section 809 Panel

made recommendations to amend outdated acquisition laws. One of the Panel's recommendations was to amend the Presidential \$1 Coin Act of 2005 because the intention of the Act was to increase circulation of the \$1 coin, which is not directly related to agencies' missions. As a result of the Panel's recommendation, section 885 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 provides an exception for business operations conducted by a contractor while performing under a Government contract from the requirements to accept and dispense \$1 coins.

The FAR is amended as follows to implement section 885 of the NDAA for FY 2018:

A. FAR sections 37.116 through 37.116-2 are removed.

B. Paragraph (c)(11) is removed from the clause at FAR 52.212-5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

C. The clause at FAR 52.237-11, Accepting and Dispensing of \$1 Coin, is removed.

**II. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf Items (COTS)**

The clause at FAR 52.237-11, Accepting and Dispensing of \$1 Coin, is being removed. It applied to contracts at or below the SAT, and to commercial items, including COTS.

### **III. Publication of this final rule for public comment is not required by statute**

"Publication of proposed regulations", 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it merely removes the requirement in the FAR for business operations performing Government contracts to accept and dispense \$1 coins. It does not have a significant effect on the public.

### **IV. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

#### **V. Executive Order 13771**

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

#### **VI. Regulatory Flexibility Act**

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

#### **VII. Paperwork Reduction Act**

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

## **List of Subjects in 48 CFR Parts 37 and 52**

Government procurement.

Dated: September 17, 2018.

William F. Clark,  
Director,  
Office of Government-wide  
Acquisition Policy,  
Office of Acquisition Policy,  
Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 37  
and 52 as set forth below:

1. The authority citation for parts 37 and 52  
continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137;  
and 51 U.S.C. 20113

### **PART 37—SERVICE CONTRACTING**

#### **37.116 [Removed]**

2. Remove section 37.116.

#### **37.116-1 [Removed]**

3. Remove section 37.116-1.

#### **37.116-2 [Removed]**

4. Remove section 37.116-2.

### **PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

5. Amend section 52.212-5 by revising the date of the clause and removing paragraph (c) (11)

The revision reads as follows:

**52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders-Commercial Items.**

\* \* \* \* \*

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE

ORDERS-COMMERCIAL ITEMS ( [**INSERT ABBREVIATED MONTH AND YEAR 30 DAYS**

**AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] )**

\* \* \* \* \*

**52.237-11 [Removed]**

6. Remove section 52.237-11.

**BILLING CODE 6820-EP**

[FR Doc. 2018-20709 Filed: 9/25/2018 8:45 am; Publication Date: 9/26/2018]